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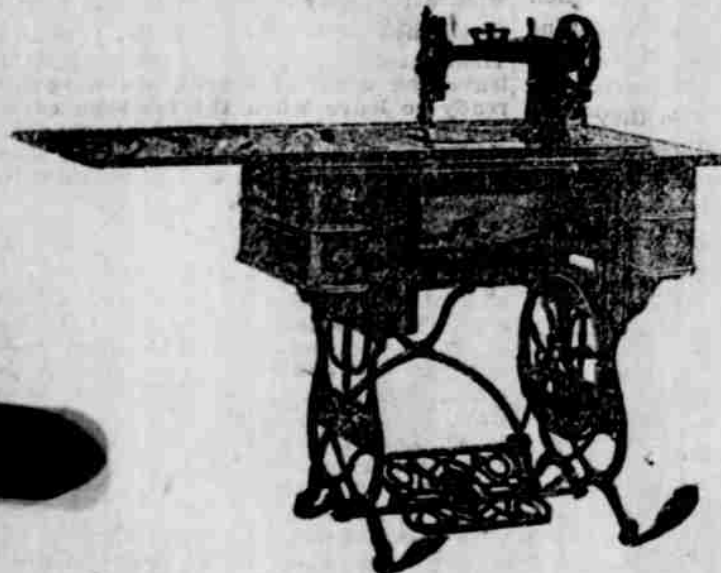
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GRAND JURY FOR KINNEY

Wilcox Won't Try. Gill Libel.

HE THROWS OUT THE SUIT

The Editor of the Republican Discharged in District Court Yesterday.

The criminal libel suit brought by W. A. Kinney against E. S. Gill, editor of the Republican, occupied the greater part of the forenoon in Judge Wilcox's Court yesterday. Defendant was represented by Frederick W. Hankey and J. A. Magoon, E. B. McClanahan and H. A. Bigelow appearing in behalf of the complainant.

The case drew the attention of a large crowd of spectators, including a number of prominent members of the bar who were summoned to appear as witnesses. Counsel for the defense opened the case by a plea for discharge on the ground of non-jurisdiction of the District Court on the ruling recently made by Judge Humphreys, wherein a large number of cases likewise brought before the lower court should have been brought at once to a jury trial instead of the District Judge committing them for trial before the Circuit Court. Inasmuch as the Grand Jury system had been extended to Hawaii, Mr. Hankey contended that that body was the one which should hear the complaint as an original jury and declare whether or not the crime with which the defendant was charged was indictable or not.

Mr. Hankey dwelt upon the question of the legality of the case being brought in the Police Court and cited authorities and the Constitution of the United States to show that an infamous crime, as libel has been characterized, was a case for the jurisdiction of the Grand Jury or the higher courts.

Defendant's counsel entered an objection against the complaint being admitted before the Court on the ground that it was an amended complaint and had not been duly sworn to. Judge Wilcox interrupted Mr. Hankey by stating that the charge would have to be spread on the record book. Mr. Hankey again objected to such a proceeding, and asked the dismissal of the case on the ground that the complaint should be sworn to as required by law as laid down by certain eminent authorities which he named. Mr. McClanahan informed Mr. Hankey they were proceeding under the local law. Mr. Hankey reiterated that the defendant was not in the jurisdiction of the Court.

Defendant's answer to the charge of libel against him was embodied in the argument made for his discharge. It read in part: "Now comes the defendant and protests that he is not guilty of the offense charged in the complaint; it appears upon the face of this complaint that this honorable Court is without jurisdiction in such cases for the following reason: (1) The complainant here charges the defendant with an infamous crime, for which defendant can be arraigned or tried only upon presentment of an indictment by the Grand Jury. (2) That the punishment and penalty which may be visited upon one convicted are infamous. (3) That the offense as charged is such that the defendant is entitled to a jury trial and that this Court is not empowered by law to grant defendant that right. Defendant therefore asks that he be discharged."

Upon the assumption that the penalty by which defendant could be sent to the prison for a term would subject him to various charges of degradation, Mr. Hankey went into details as to the garb, fare, lock-step and various other features which are known to the regulations of every prison, and claimed that by such reasoning if the defendant could be subjected to such indignities, then the crime he was charged with, was an infamous one, which he contended his client was not guilty of.

He stated that the Grand Jury was in session and the complaint should be made to that body. It could be done within a few hours if necessary. In conclusion, he asked for the discharge of his client from the jurisdiction of the District Court. J. A. Magoon followed up Mr. Hankey's argument.

W. A. Kinney spoke in his own behalf, claiming that the District Court Judge had the power and right under the local statutes to try and commit the defendant to a trial jury in the higher court. The argument closed by Judge Wilcox making the following statement:

"I sustain the plea of counsel for the defense. I think this is a case where the defendant can be taken directly before the Grand Jury. The Attorney General has advocated that plan, and I therefore decline to commit the defendant, and I discharge him."

Mr. Kinney stated after Police Court adjourned that he would have the matter brought to the attention of the Attorney General and if possible have a complaint issued through him to cause Mr. Gill's appearance before the Grand Jury. In stating his opinion as to the result of the hearing yesterday morning before Judge Wilcox, Mr. Kinney said:

"The Grand Jury was good enough for me in the first instance, particularly as the article complained of attacked the integrity of a body of men both on the bench and bar, my belief being that the accusation was so wide that it called for a general investigation, which could only properly be made by a body possessing the powers of the Grand Jury. The charge of Judge Humphreys to the Grand Jury, which followed my open letter, led me to suspend any attempt to enlist the action of the Grand Jury for the time being, and led me to press the proceedings in the District Court. The defendant in that court has now urged that the Grand Jury has exclusive jurisdiction over the charges made against him, and that the defendant is in right from a legal standpoint. The result is that I shall feel free now to make direct application to the Grand Jury."

Judge Wilcox declined to commit the defendant for trial, on the sole ground that the Grand Jury was in session and the matter could be taken direct to that body, so that nothing now seems in the way of a consideration of the whole matter by the Grand Jury. The defendant says he wants it; I have always wanted it, and the district magistrate says that he declines to consider the matter, leaving it to the consideration of the Grand Jury. Under these circumstances I have no doubt the Grand Jury will take action."

Always there: Querius—"I suppose you had plenty of fresh things at the summer hotel?" "Yes; paint and college-bred waiters."—Town Topics.

ESCAPE DEATH BUT NARROWLY

(Continued from Page 1.)

must have told an interesting story of the trouble in Tien-Tsin. Dr. Leslie, who passed through here on the America Maru, was one of our Honan missionaries and a mighty plucky man he was, too. Mr. Jamieson, one of the American engineers who left Honan with us and who was one of the party who afterwards separated from us, was in Shanghai ahead of us and was most kind and generous to us in our trouble. We arrived in Shanghai without anything. We are all most thankful to have escaped with our lives. I assure you, but we have heard awful stories of the fates which have befallen some of our brethren, and it very naturally fills our hearts with a deep, inexpressible sorrow."

HOLMES' EXPERIENCE.

The Rev. Mr. S. D. Holmes has an entirely different story to tell. His is a story of friendship, not of hate; a tale of help and not of hindrance. He is a missionary of the American Baptist Missionary Union and was working at Kihwa Fu in the province of Che Kiang, where he has been laboring with his wife for the past seven years. Mr. Holmes' story, in brief, is as follows:

"All the Chinese were very friendly to us up to within a very little while before we left the place for Shanghai. It was not until some of the Chinese who had witnessed the deeds of the Boxers had come into our district and spread the message of death to all foreigners that the Chinese of our district were worked up to the idea of exterminating the missionaries."

"They were very unfriendly to us after that and watched every opportunity of doing us harm. But, remarkable to say, the Chinese magistrates of the place were very friendly to us and assured us of their protection. My family and myself and Mr. Bousfield and his family were stopping at the mission at the time."

"Major Sio, chief of the magistrates in Kihwa Fu, warned us that a message had been received to the effect that all missionaries, and all foreigners, were to be destroyed. He warned us that our lives were in danger and that we were likely to be set upon by the fanatical mob at any moment almost and done to death."

"Major Sio, in fact, offered the protection of his quarters to us and guaranteed to take care of us. We had a great many friends, had called on each other, and taken tea and cakes together, being very good friends, indeed. Not only was Major Sio our friend, but the two other most prominent officials in the place were decidedly in favor of giving us protection and did everything in their power to help us in our great trouble and make our lives safe from the infuriated masses."

"It was not long after the Chinese were notified through messengers of the doings of the Boxers and the message of death to foreigners that they began to harass us. A mob, fully armed, tried to force the gate of our mission. Mr. Bousfield and I went out to the gate and discharged our rifles into the air in order, if possible to frighten away the crowd by showing that we were in possession of firearms. They gave up the attempt to force the gate. Then the magistrates came to plead with the mob."

"When the magistrates arrived on the scene the cathedral doors were thrown open to receive them. They came into us—and the whole mob with them—a most unfortunate accident. Well, without going into the details, after being very thoroughly robbed, we eventually managed to escape from the country with the assistance of the friendly magistrates. We got over the rear walls of our premises and escaped by a back way to the quarters of Major Sio. The Major had only ten soldiers with him at the time, but sent immediately for more and gave us a escort. We had a hard time of it before getting away; the mob wanted to get at us, they wanted to kill us, but the Major protected us, and his few soldiers charged the crowd again and again, often killing several of the enemy. Then the soldiers captured several prisoners. The mob tried many times to burn the buildings of the mission, but it would not burn. Finally they did succeed in burning the verandas, but that was all. It was Saturday, July 14, that the most of this trouble was going on. Then we escaped."

"We did not have to go to Shanghai for Major Sio promised us ample protection. If we stayed with him, he had secured about 300 soldiers by this time. But we were afraid that at any moment we would be likely to be cut off from a chance to escape, and so we went. We were in need of some money; the Major handed me \$100. Surely it was a remarkable case of friendship on the part of these Chinese. Major Sio and his two fellow officials."

"Major Sio sent his own brother and two of his most intimate friends as a personal escort with us to Shanghai; he also gave us twenty soldiers, ten of this number saw us all the way through to Shanghai. Fortunately, on arriving in Shanghai, we found the treasurer of our society there and were able to get some money for necessities. We also rewarded the Chinese soldiers for their services and made presents to the brother and friends of Major Sio."

"I think if any story should be published, it should be this one, for here is a case of wonderful kindness on the part of the Chinese at a time when it was not expected. Let us give them credit for this one good deed; there may possibly have been similar services rendered; they are guilty of enough awful crime as it is—let us give them, therefore, especial credit for this act of humanity. It is very strange when you consider that in reality all of China is at war with the rest of the world."

HE COULDN'T LOSE.

"Let me tell you how I lost a chance to make a small fortune," remarked a gossip board of trade man in the shade of a big board sign with prices of meats carded in yellow letters. "It was lack of capital. Also it was at the Washington park track on the Fourth."

"In the three horse race with Sidney Lucas, Advance Guard and Sam Phillips, I risk a sunstroke and wander down in the ring and look at the boards. Now, in a three horse race two must come place, hey? Well, there was a Dutch book down there and it threw up the place figures with Advance Guard 1 to 2, Sam Phillips 7 to 10 and Lucas even money—all for place, mind you. I had \$300, and took \$100 of each. Now, I couldn't lose. Two had to come place. I would lose \$100 on the horse that finished third or died in the race and win \$12 on the other two, a gain of \$20 on every \$300 invested."

"Now, there wasn't one book like that, but twenty round the ring. I never saw anything like it. The books would have taken all I could have planted. But I didn't have the ready."

—Chicago News.

Impressed: He—"I have just returned from a little railroad trip, and the scenery did me good." She—"Nature was grand, was she?" He—"Yes; and I have never seen the advertisements in more gorgeous colors."—Bazar.

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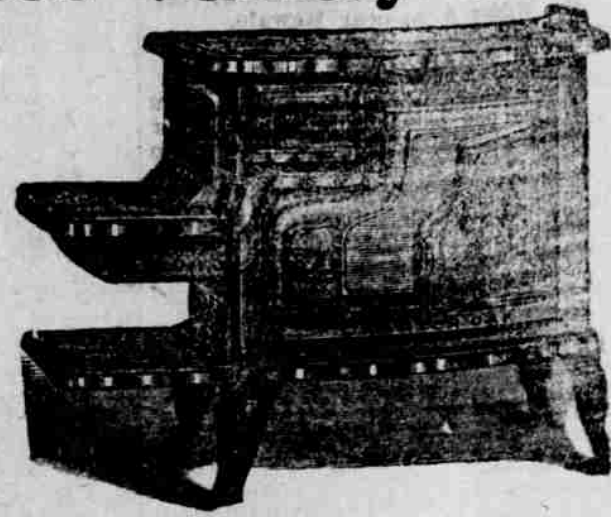
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